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McHALE, AND RUSSELL BLACKADAR  
12

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN JOSE DIVISION

16 ROBERT OLSZEWSKI, SARA BERTSCH,  
17 JACQUELINE MACIA, PHILIP McHALE,  
and RUSSELL BLACKADAR, individuals,

18 Plaintiffs,

19 v.

20 SYMYX TECHNOLOGIES, INC., and  
21 ELSEVIER, INC.,  
Corporations,

22 Defendants.  
23

Civil Action No. CV 08 3657 HRL

**STIPULATION AND ~~PROPOSED~~  
ORDER TO POSTPONE CASE  
MANAGEMENT CONFERENCE**

24  
25 Pursuant to Rule 29(b) of the Federal Rules of Civil Procedure, and United States District  
26 Court for the Northern District of California Civil L.R. 6-2(a), plaintiffs Robert Olszewski, Sara  
27 Bertsch, Jacqueline Macia, Philip McHale, and Russell Blackadar (collectively, "Plaintiffs") and  
28 defendants Symyx Technologies, Inc. ("Symyx") and Elsevier, Inc. ("Elsevier"), by and through

1 their respective counsel, hereby submit the following joint stipulation:

2 Because on April 21, 2009 the Court will hear Symyx's motion to dismiss (filed February  
3 27, 2009) and Elsevier's motion to dismiss (scheduled to be filed March 13, 2009), and because  
4 the parties believe it important and efficient to have the benefit of the Court's orders on these  
5 motions in conferring and formulating a discovery plan pursuant to Rule 26(f)(2) & (3) of the  
6 Federal Rules of Civil Procedure, the parties hereby request that the Court postpone, and stipulate  
7 that the Court postpone, the Case Management Conference in this matter currently scheduled for  
8 Tuesday, April 7, 2009 at 1:30 pm until Tuesday, May 19, 2009 at 1:30 pm.

9 **IT IS SO STIPULATED:**

10 Dated: March <sup>13</sup>9, 2009

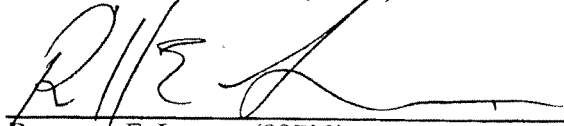
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ATTORNEYS FOR DEFENDANTS  
SYMIX TECHNOLOGIES, INC., AND ELSEVIER, INC.

16 Dated: March <sup>13</sup>9, 2009

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ATTORNEYS FOR PLAINTIFFS  
ROBERT OLSZEWSKI, SARA BERTSCH, JACQUELINE  
MACIA, PHILIP MCHALE, AND RUSSELL  
BLACKADAR

23 **IT IS SO ORDERED:**

24 Dated: 3/19/09



Honorable Howard R. Lloyd  
United States District Court Magistrate Judge

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SYMYX TECHNOLOGIES, INC., AND ELSEVIER, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ROBERT OLSZEWSKI, SARA BERTSCH,  
JACQUELINE MACIA, PHILIP McHALE,  
and RUSSELL BLACKADAR, individuals,

Plaintiffs,

v.

SYMYX TECHNOLOGIES, INC., and  
ELSEVIER, INC.,  
Corporations,

Defendants.

Civil Action No. CV 08 3657 HRL

**DECLARATION OF STEVEN L.  
FRIEDLANDER IN SUPPORT OF  
STIPULATION TO POSTPONE  
CASE MANAGEMENT  
CONFERENCE**

I, Steven L. Friedlander, declare as follows:

1. I am over the age of eighteen and have personal knowledge of the facts below.

I submit this declaration in support of the parties' joint stipulation to postpone the Case Management Conference currently scheduled for Tuesday, April 7, 2009 at 1:30 pm until Tuesday, May 19, 2009 at 1:30 pm.

2. As counsel for defendant Symyx Technologies, Inc. (Symyx) and defendant Elsevier, Inc. ("Elsevier") (collectively, "Defendants"), I have conferred with Richard E. Levine, counsel for plaintiffs Robert Olszewski, Sara Bertsch, Jacqueline Macia, Philip McHale, and Russell Blackadar (collectively, "Plaintiffs") regarding postponement of the Case Management

1 Conference. Mr. Levine and I have signed the stipulation submitted herewith.

2 3. On April 21, 2009, this Court will hear Symyx's motion to dismiss (filed  
3 February 27, 2009) and Elsevier's motion to dismiss (scheduled to be filed March 13, 2009).  
4 I have conferred with Mr. Levine and we have both agreed that it is important and efficient to  
5 have the benefit of the Court's orders on Symyx's and Elsevier's motions in conferring and  
6 formulating a discovery plan pursuant to Rule 26(f)(2) & (3) of the Federal Rules of Civil  
7 Procedure. Therefore, Mr. Levine and I have agreed to submit the stipulation filed herewith that  
8 asks the Court to postpone the Case Management Conference currently scheduled for Tuesday,  
9 April 7, 2009, at 1:30 pm until Tuesday, May 19, 2009, at 1:30 pm.

10 4. The following time modifications have previously been made in this case:

11 (a) November 19, 2008 Clerk's Notice postponing November 25, 2009 Case  
12 Management Conference to December 9, 2008.

13 (b) December 8, 2009 Clerk's Notice postponing December 9, 2008 Case  
14 Management Conference to January 20, 2009 pursuant to Plaintiffs' ex parte application for  
15 continuance of the Case Management Conference due to Plaintiffs' failure to serve the Complaint  
16 on Defendants in light of Plaintiffs' decision to file a First Amended Complaint.

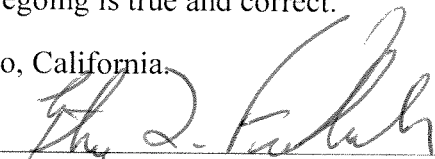
17 (c) January 20, 2009 Clerk's Notice postponing January 20, 2009 Case  
18 Management Conference to April 7, 2009 pursuant to Plaintiffs' motion to continue the Case  
19 Management Conference because Plaintiffs' First Amended Complaint was not served on  
20 Defendants until January 9, 2009.

21 (d) January 26, 2009 joint stipulation to extend the time for Symyx to respond  
22 to Plaintiffs' First Amended Complaint to January 27, 2009.

23 (e) March 5, 2009 joint stipulation to extend the time for Elsevier to respond to  
24 Plaintiffs' First Amended Complaint to March 13, 2009.

25 I declare under penalty of perjury that the foregoing is true and correct.

26 Executed on March 13, 2009 in San Francisco, California.

27   
28 Steven L. Friedlander